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Attorneys for Defendants  
Capital One F.S.B. (erroneously sued herein  
as “Capital One Healthcare Finance”) and  
CIT Bank (erroneously sued herein as “CIT  
Group Inc.”)

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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EDGAR LAVERDE,

Plaintiff,

-against-

CAPITAL ONE HEALTHCARE FINANCE, a  
division of Capital One Services, Inc., and CIT  
GROUP INC.,

Defendants.  
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: Civil Action No.: 07 Civ. 4838 (BSJ)  
: (GWG)  
:  
: ECF CASE  
:  
: **NOTICE OF MOTION**  
: **TO DISMISS**  
:  
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PLEASE TAKE NOTICE that, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, defendants Capital One F.S.B. (erroneously sued herein as “Capital One Healthcare Finance”) and CIT Bank (erroneously sued herein as “CIT Group Inc.”) will move, on September 28, 2007, at 10:00 a.m., or as soon thereafter as counsel may be heard, at the United States Courthouse, 500 Pearl Street, New York, New York, for an Order dismissing plaintiff Edgar Laverde’s complaint and all claims asserted therein, for failure to state a claim on which

relief may be granted. The foregoing motion is based on the grounds set forth in the accompanying memorandum of law, and on the accompanying Declaration of James M. Bergin dated August 31, 2007 and the exhibits attached thereto, and on all of the pleadings and proceedings heretofore had herein.

Dated: New York, NY  
August 31, 2007

Respectfully submitted,

By: /s/ James M. Bergin  
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